

REMARKS

Claim 1 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Yates et al '84 in view of Hooven et al '536. This rejection is respectfully traversed with respect to this claim as amended herein.

Claim 1 specifically recites “a first elongated jaw member having a recess in an inner surface thereof adapted to slidably receive the ablation device therein,” and “a transmural system disposed on one of the jaw members and adapted for monitoring the transmural of an ablation lesion formed in the target tissue by the ablation device disposed within the recess of the first jaw member.” In addition, new dependent claim 21 is further limited by recitation of “at least two electrodes disposed on opposite sides of the recessed inner surface of the first jaw member to selectively transfer electrical signals therebetween through the target tissue.”

These aspects of the claimed invention are not disclosed by the cited references considered either alone or in the combination proposed by the Examiner. It is noted that Yates et al '811 discloses a pair of jaws for compressing, welding and severing a tissue structure such as a blood vessel. Tissue compressed within the jaws of this reference is then welded or cauterized via conduction of RF energy between sets of bipolar electrodes spaced about a central knife channel in which a cutting blade operates to sever the compressed, cauterized tissue. Yates et al '811 additionally discloses stapling mechanisms on opposite sides of the knife

channel for occluding ends of a blood vessel that is (to be) cauterized and severed. There is no structure here for housing an ablation device within a recess in a jaw of a clamp accessory, in any manner resembling Applicants' claimed invention. Quite distinctively, this reference relies upon elevated ridges to compress target tissue and also to house bipolar cauterizing electrodes arranged to cauterize the target tissue on opposite sides of a cut or sever line.

And, Hooven et al '536 is noted to rely upon jaws 50, 51 or wire electrodes 201, 202 to both compress target tissue and also apply ablation energy, with no disclosure of any structure in such jaws including a recess for receiving an ablation device (separate from the jaws), in any manner resembling Applicants' claimed invention.

Thus, merely combining these references as proposed by the Examiner would apparently result in a device having tissue-clamping jaws that also directly apply or deliver ablation energy to clamped tissue, with no disclosure or suggestion fairly derived from such combination of a clamp accessory having a recess in a jaw for receiving therein an ablation device (separate from such recessed jaw). Amended Claim 1 and new dependent claim 21 are therefore submitted to be patentably distinguishable over the cited art.

Claim 1 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Balazs et al '933 in view of Foley et al '622 and Hooven et al '536. This rejection is respectfully traversed with respect to this claim as amended herein.

This claim specifically recites “a transmural system disposed on one of the jaw members and adapted for monitoring the transmural of an ablation lesion formed in the target tissue by the ablation device disposed within the recess of the first jaw member.”

It is noted that the primary reference to Balazs et al '933 includes a recess in the inner surface of one of a pair of mating jaws, but with no transmural system of a type resembling Applicants' claimed invention.

And Foley et al '622 merely discloses an ablation template with no tissue-grasping jaws. At best, perhaps a vacuum structure in the template can temporarily attach to targeted tissue, and even support electrodes on/about the template for contacting the targeted tissue while an ablation device is operated within the template. And, the disclosure of Hooven et al '536, as noted in the above Remarks, is deficient of jaws having a recess in at least one of them for receiving an ablation device (separate from the jaws).

Thus, combining the disclosures all of these references, if even permissible without materially altering the operation or function of the references, nevertheless is submitted not to establish even a *prima facie* basis, including all recited elements

in the structure of the invention, from which a proper determination of obviousness can be formed. Amended claim 1 is therefore submitted to be patentably distinguishable over the cited art.

Applicants are also presenting herewith new dependent claims 22-26 to provide scope and breadth of claims coverage to which Applicants are submitted to be entitled in view of the cited references. Support for these claims may be found in the specification, for example, at paras. [0050] et seq, [0060] et seq, and in Figures 4, 5A, 5B, 7 and the associated descriptions.

Favorable consideration and allowance of claims 1 and 21-26 are solicited.

Respectfully submitted,
Dany Berube, et al.

Dated: 8/15/08

By: /Albert C. Smith/
Albert C. Smith, Reg. No. 20,355
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel.: (650) 335-7296
Fax.: (650) 938-5200